Santa Clara Valley Water District

FC 1025 (09-20-13)

Meeting Date:	06/23/15
Agenda Item:	2.1
Unclassified Manager:	M. King N. Camacho
Extension:	2711 2084
Director(s):	All

BOARD AGENDA MEMO

SUBJECT: Receipt of the Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee's First Annual Report for Fiscal Year 2013-2014

RECOMMENDATION:

A. Receive the Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee's First Annual Report for Fiscal Year 2013-2014.

B. Provide direction to staff as appropriate.

SUMMARY:

On November 6, 2012, the voters of Santa Clara County passed Measure B, the Safe, Clean Water and Natural Flood Protection Program (Program), which provided for the establishment of a special tax to pay for the cost of the Program. The Program required the Board establish an external, Independent Monitoring Committee (IMC) responsible for conducting an annual audit and providing an annual report regarding the implementation of the intended results of the Program.

The enclosed report details the IMC's evaluation, findings and recommendations of the first annual report for Fiscal Year 2013-2014 on the Program's Priorities and other Capital Projects.

FINANCIAL IMPACT:

There are no financial impacts associated with receipt of the report. The Office of the Clerk of the Board has budgeted funds to support the business meetings of the Board's Committees for Fiscal Year 2014-2015.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonable foreseeable indirect physical change in the environment.

SUBJECT: Receipt of the Safe, Clean Water and Natural Flood Protection Program Independent Monitoring Committee's (SCW IMC) First Annual Report for Fiscal Year 2013 - 2014

(06/23/15)

ATTACHMENTS:

Attachment 1: SCW IMC's Letter to the Board
Attachment 2: Priorities Table

Safe, Clean Water and Natural Flood Protection Program

Independent Monitoring Committee

Kathy Sutherland, Chair
Patrick Kwok, Vice Chair
Lonnie Gross
Tony Santos
Kit Gordon
Joe Head
Tess Byler
Bill Hoeft
Marc Klemencic
Julie Hutcheson
Jimmy Nguyen
Dan McCorquodale
Eileen McLaughlin
Debra Cauble

June 12, 2015

To: Santa Clara Valley Water District Board of Directors,

On November 6, 2012, the voters in Santa Clara County approved Measure B the *Safe, Clean Water and Natural Flood Protection Program* (SCW Program), which replaced the *Clean, Safe Creeks and Natural Flood Protection Program.*

As stated on the first page of the SCW Annual Report Year 1, in the message from the Chief Executive Officer:

The Safe, Clean Water Program addresses the following needs, values, and priorities as identified by Santa Clara County stakeholders:

Priority A: *Ensure a Safe, Reliable Water Supply*
Priority B: *Reduce Toxins, Hazards and Contaminants, in our Waterways*
Priority C: *Protect our Water Supply from Earthquakes and Natural Disasters*
Priority D: *Restore Wildlife Habitat and Provide Open Space*
Priority E: *Provide Flood Protection to Homes, Businesses, Schools, and Highways*

The SCW Program requires the District to provide an annual report to the Board of Directors (Board) detailing the progress of each project in the five Priority areas as well as other capital flood protection projects. In addition, the SCW Program requires the annual report be reviewed by an Independent Monitoring Committee (IMC) after Board acceptance.

On February 24, 2015, District staff presented the first annual report covering FY 14 (July 2013 to June 2014) to the Board which accepted the report and forwarded the report to the IMC.

The IMC consists of members of the public appointed by the Board. Its annual report is intended to add further transparency and public accountability to the implementation of the SCW Program. The IMC understands the importance of its role and is committed to a thoughtful and thorough review of the SCW Program annual report. The IMC's findings include recommendations to help meet the priorities of the program. Its report is presented to the Board and is available to the public.

The IMC first met on Thursday April 2, 2015, and determined that the preferred way to review the annual report would be by subcommittee for each Priority area. Subcommittee meetings with IMC members and District staff were held the week of April 13th. The IMC met as a whole on April 23rd with presentations from each of the subcommittees. IMC members agreed to have the Chairs of each subcommittee, led by the Chair of the IMC, draft the first IMC report to the Board. This first draft report was presented at the May 14, 2015, IMC meeting for editing. On June 10, 2015, the IMC met to review the edited report and for final approval.

With its review of the Safe, Clean Water and Natural Flood Protection Fiscal Year 2013-2014 Year 1 report completed, the IMC agrees with the status of the projects. The Committee is generally satisfied with the content of the report, which was a solid start for the coming years. Its recommendations call for additional information to improve the depth of future reports. Its detailed comments, concerns and recommendations are attached.

The IMC encourages the Board to give strong consideration to implementing its recommendations.

The IMC thanks District staff for developing the first SCW report, as well as for their support facilitating the meetings, answering questions, and providing additional information.

Sincerely,

Kathleen Sutherland, Chair
Independent Monitoring Committee

Challenges, Concerns and IMC General Recommendations

Timing of the Annual Report –
The second fiscal year will be coming to an end as the IMC report for the first year is being presented to the Board in June. To ensure the Board is able to consider the IMC's findings before the beginning of the next fiscal year, the District's needs to submit its annual report to the IMC in a timely manner.

- The IMC strongly recommends that District staff commit to presenting the Annual Report to the Board in time for the IMC to receive the report in January.

Permitting –
The majority of capital projects in the Annual Report require permits from other agencies and obtaining these permits in a timely manner can be a challenge. Permit delays can increase construction costs and erode the public's trust.

- The IMC recommends the District continue to look for new ways to reduce or eliminate permitting delays and provide the public with clear information about the timeline for each project including specific information about how long the District has been waiting for permits from other agencies and steps taken to address the delays.

- The IMC recommends staff develop an action plan to thoroughly assess options to address permit delays and include that information in the next Annual Report.

Partnerships –
Large capital projects cannot be funded solely by the District and can rely heavily on funds from outside agencies. There are two areas which can prove challenging to the successful completion of these types of projects.

Funding – Funding from outside agencies is not always guaranteed nor is it always delivered at the projected time.
Local Priorities –

- The IMC recommends the District continue to develop projects that reflect our local priority of enhancing and improving the condition of our rivers and creeks while providing the necessary flood protection.

Climatic Extremes –
Drought
The effect of the current drought on stream flow, water quality and vegetation restoration has created challenges for meeting specific KPIs in several projects. For the District as a whole, the immediate need for staff to address the impacts of the current drought on available water has diverted staff time from the program to the pressing need to conserve and find other sources of water, including recycled water.

- The IMC recommends the District re-evaluate the timing and costs of projects significantly affected by drought or other climatic extremes.

- The IMC recommends the District provide information about how the need to address our critical water shortage has affected staff time for the Safe, Clean Water and Natural Flood Protection Program.

IMC Recommendations - Annual Report Format

Budget

Actual inflation over the term of the SCW Program (15 years) could have a significant impact on the program. To assist in monitoring the program, staff should include information regarding inflation projections so the IMC can monitor projections over the life of the program. The information should provide initial inflation assumptions, changes to inflation projections that may result from actual inflation numbers, and a comparison of actual vs. projected inflation for the years of the program.

Financial Information for Individual Project Reports –

- In addition to the current financial information given in the Annual Report, project specific budget figures, as currently presented in Appendix A should also be included in the respective Project Report.

- Bullet point formatting should be used to highlight key financial facts in addition to the more detailed text in the Financial Information section.

- Any funds that are transferred from one project to another should include detailed information regarding why the funds were transferred and how the transfer will affect both projects.

Project Report Schedule –

- Project Schedule should include a Staff Confidence Level as to whether or not the project will be completed on time. The Staff Confidence Level can be a simple percentage with 100% indicating full confidence the project will be completed within the Project Schedule. Information regarding current or anticipated permit delays and partnership challenges affecting the confidence level should be included.

Additional IMC Support –

- Provide opportunities for IMC members to visit projects to obtain a clearer understanding of each Project.

- Present an overview of the Valley Habitat Plan for a greater understanding about the benefits of the plan and how it will improve the permitting process.

- Provide information to the IMC regarding the process to revise KPIs.

Priority A
Ensure a Safe, Reliable Water Supply

Project:		Status:	Comment:
A1	Main Avenue and Madrone Pipelines Restoration	On Target	• IMC recommends a more detailed schedule and budget in the next Annual Report (FY 14-15)
A2	Safe, Clean Water Partnerships and Grants	On Target	KPI 3 Nitrate Removal Systems – • IMC recommends finding new ways to reach out to private well users.
A3	Pipeline Reliability Project	Scheduled to begin in 2025	No comment

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Priority B
Reduce Toxins, Hazards and Contaminants in Our Waterways

Project:		Status:	Comment:
B1	Impaired Water Bodies Improvement	On Target	Only 79% of the annual budget was spent due to drought conditions and delay in installing PG&E power at all reservoirs. • IMC recommends continuing to work with PG&E to secure power for Almaden Reservoir.
B2	Interagency Urban Runoff Program	On Target	IMC recommends current and potential future drought impacts on projects be clearly indicated.
B3	Pollution Prevention Partnership and Grants	On Target	Only 78% of the annual budget was spent because Partnership funds were not fully expended. • IMC recommends more outreach on the Partnership process and technical assistance whenever possible for grant applicants.
B4	Good Neighbor Program: Illegal Encampment Cleanup	On Target	Project is high profile, but underfunded. This reporting period, spending was accelerated drawing funds from future years. • IMC recommends the Board discuss how to adequately fund the clean-up of encampments.

Project:		Status:	Comment:
B5	Hazardous Materials Management and Response	On Target	No comment
B6	Good Neighbor Program: Remove Graffiti and Litter	On Target	This reporting period, spending was accelerated by 7% drawing funds from future years in response to community concerns.
B7	Support Volunteer Cleanup Efforts and Education	On Target	IMC recommends replacing the first sentence under Opportunities and Challenges, “Unless this project receives additional funding, the 6 future grant cycles will be reduced to approximately $75,000 per cycle, as a result of the $154,000 budget adjustment made in FY14” with “While the $154K increase to the FY14 grant cycle did not impact the overall 15-year allocation, it did accelerate the spending, which will result in reduced funding available for future grant cycles.”

Priority C
Protect our Water Supply from Earthquakes and Natural Disasters

Project:		Status:	Comment:
C1	Anderson Dam Seismic Retrofit	On Target	No Comment
C2	Emergency Response Upgrades	On Target	No Comment

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Priority D
Restore Wildlife Habitat and Provide Open Space

Project:		Status:	Comment:
D1	Management of Revegetation Projects	Not on target	Recognize drought has impacted project timeline. • See General Recommendations under Climatic Extremes – Drought
D2	Revitalize Stream, Upland and Wetland Habitat	On Target	Although the 5 Stream Corridor Priority Plan has not yet been adopted, District staff confirmed that non-native and invasive vegetation removal along the lower Guadalupe River in FY14 counts toward meeting KPI 1. Current KPIs do not address the stated benefit of increasing habitat connectivity. • IMC recommends the District include a metric to demonstrate the increase in habitat connectivity.
D3	Grants and Partnerships to Restore Wildlife Habitat and Provide Access to Trails	On Target	The IMC recognizes that the District may not have land use authority over grant projects but the grant criteria for trails should reflect the District's goal to enhance, not degrade, habitats. • IMC recommends the District does not fund trail projects that adversely affect habitat.

Project:		Status:	Comment:
D4	Fish Habitat and Passage Improvement	On Target	Progress on KPI 1 includes a statement that the primary project objective of the Almaden Lake project "is to reduce mercury in target fish and reduce production of methyl mercury to meet site-specific mercury water quality objectives". This is not a listed benefit or KPI for Project D4. • The IMC recommends District staff provide a cost allocation plan that appropriately apportions the expenditures of this project between Priority B (e.g. B1 - Impaired Water Bodies Improvement) and Priority D4.
D5	Ecological Data Collection and Analysis	On Target	See General Recommendations under Annual Report Format - Financial Information for Individual Project Reports and Project Report Schedule.
D6	Creek Restoration and Stabilization	Scheduled to start FY18	No Comment
D7	Partnerships for the Conservation of Habitat Lands	On Target	IMC recommends the District arrange for a presentation to the IMC by the Santa Clara Valley Habitat Agency on the selection criteria of land purchases and partnerships.
D8	South Bay Salt Ponds Restoration Partnership	On Target	No Recommendation No concerns this fiscal period.

Priority E
Provide Flood Protection to Homes, Businesses, Schools and Highways

Project:		Status:	Comment:
E1	Vegetation Control and Sediment Removal for Flood Protection	On Target	Maintenance is driven by or attributed to permit restrictions. Maintenance Guidelines are under development. If guidelines are not complete, staff uses site inspections and historical information to determine whether or not maintenance needs to be done. All work must be approved by regulatory permitting agencies Selection of vegetation management sites is based on a process that is outlined in the District's Stream and Maintenance Program. (SMP) which prioritizes sites for implementation. • IMC recommends future reports include the name of the creek and watershed for sediment removal projects. • IMC recommends that future reports explain progress towards measuring the Key Performance Indicator of 90% of improved channels are at design capacity.
E2	Emergency Response Planning	On Target	39% of annual budget spent due to re-allocation of resources
E3	Flood Risk Reduction Studies	On Target	Extensive screening process carried out thru the SCW program in order to determine priority reaches.

Project:		Status:	Comment:
E4	Upper Penitencia Creek Flood Protection Coyote Creek to Dorel Drive – San José	Adjusted	Currently in planning stages. Funds were not utilized in FY2014. IMC acknowledges that the scope will need to be adjusted to obtain permits. • IMC recommends the Board ensure that the project preserves the local, pristine habitat and the priorities of the voters.
E5	San Francisquito Creek Flood Protection San Francisco Bay to Middlefield Road – Palo Alto	Modified	Project seeks permits. Final design will be submitted in May 2015. Per the General Recommendation "Annual Report Format - Project Report Schedule", • IMC recommends including a Staff Confidence Level with each project schedule to provide notice of possible setbacks and help manage expectations.
E6	Upper Llagas Creek Flood Protection Buena Vista Avenue to Wright Avenue – Morgan Hill, San Martin, Gilroy	On Target	Need U.S. Army Corp of Engineers approval and some land acquisition. Environmental Impact Statement (EIS) needs to be accepted.
E7	San Francisco Bay Shoreline Study Milpitas, Mountain View, Palo Alto, Santa Clara and Sunnyvale	On Target	9% of committee money spent. Design to be presented to U.S. Army Corp of Engineers in December of 2015.
E8	Upper Guadalupe River Flood Protection Highway 280 to Blossom Hill Road – San José	On Target	Joint project with U.S. Army Corp of Engineers. Federal funding 12.6 million dollars.

Other Capital Flood Protection Projects and Clean, Safe Creeks Grants Projects

Project:	Status:	Comment:
Permanente Creek Flood Protection San Francisco Bay to Foothill Expressway – Mountain View	Adjusted	Waiting for agency permits to begin construction. Per the General Recommendation "Annual Report Format - Project Report Schedule", • IMC recommends including a Staff Confidence Level with each project schedule to provide notice of possible setbacks and help manage expectations.
Sunnyvale East and Sunnyvale West Channel Flood Protection San Francisco Bay to Inverness Way and Almanor Avenue -- Sunnyvale	Adjusted	Delayed due to Environmental Impact Report process. Staff refined the design reducing the initial planning/design/construction budget by $25 million. Per the General Recommendation "Annual Report Format - Project Report Schedule", • IMC recommends including a Staff Confidence Level with each project schedule to provide notice of possible setbacks and help manage expectations.
Berryessa Creek Flood Protection Calaveras Boulevard to Interstate 680 – Milpitas and San José	Adjusted	Staff explained that the Army Corps of Engineers had received federal support for this project, and project construction will be completed earlier than planned. • IMC recommends staff develop a revised project schedule for the next annual report.

Project:	Status:	Comment:
Coyote Creek Flood Protection Montague Expressway to Interstate 280 – San José	Adjusted	This project is on hold due to waiting on the Anderson Dam Retrofit project design, which will change downstream flow. • IMC recommends the District encumber the current budget for this project to ensure it is available for this project in the future. • IMC recommends the District ensure that outside funding for this project is not jeopardized due to the timing of the Anderson Dam Retrofit.
Calabazas Creek Flood Protection Miller Avenue to Wardell Road – Sunnyvale	On Target	No comment
Clean, Safe Creeks Grants Projects	On Target	There are 22 outstanding grant projects from Clean Safe Creeks. All projects on target in FY 2014. However projects 11 and 12 (Creekside Sports Park Pedestrian Bridge and Little Arthur Creek Streamflow Stewardship Implementation Project) may need extensions for FY 2015.